

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

HELEN PETROLAWICZ, Administrator of the Estate of
Vincent John Petrolawicz, Jr., a/k/a Vincent J. Petrolawicz, Jr.
and HELEN PETROLAWICZ, Individually,

Plaintiff,

DECISION AND ORDER

v.

06-CV-6151L

RONALD LeFOR,
PENSKE TRUCK LEASING CANADA, INC.,
TRANSFORCE, INC.,
TRANSFORCE INCOME FUND,
TRANSPORT N.J.N., INC., d/b/a TRANSPER and/or
P&W INTERMODAL, INC.,

Defendants.

Plaintiff, Helen Petrolawicz, as Administrator of the Estate of her intestate husband, settled a wrongful death action against several defendants. Settlement was for 1.1 million dollars.

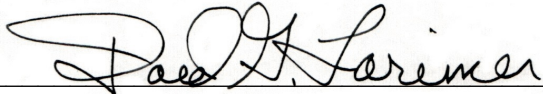
Based on the affidavit of plaintiff's counsel and the General Release, I signed an order prepared by plaintiff's counsel on July 2, 2008 allocating the net proceeds for economic loss and conscious pain and suffering. At that time I was unaware that there were competing claims and disputes among the intestate beneficiaries.

Upon receipt of the July 2, 2008 Order, counsel for the children of the decedent who may be entitled to sums as intestate beneficiaries, objected to the Court's order which allocates the recovery between wrongful death and conscious pain and suffering.

The July 2, 2008 Order is vacated. After reviewing the respective submissions of counsel, I believe the parties' interests can be accommodated by adherence Local Rule 41.1(c). I am prepared to sign an order approving the settlement, including attorney's fees and disbursements. The parties do not seem to dispute those sums. As the Local Rule suggests, however, once I have approved the settlement, the Estate representative must make application to the Surrogate in the County and State administering the Estate for a proper order of distribution.

Plaintiff's counsel should, therefore, submit a proposed order to me approving the settlement consistent with the terms described above. Counsel for the intestate beneficiaries should approve it as to form.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
August 27, 2008.